

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JOSE MEJICANOS,

Petitioner,

-v-

UNITED STATES OF AMERICA,

Respondent.

24-cv-1890

ORDER

On November 13, 2024, Magistrate Judge Robert W. Lehrburger issued a Report and Recommendation in the above-captioned matter proposing a resolution of the petition filed by Jose Mejicanos, pro se, pursuant to 28 U.S.C. § 2255. Specifically, he recommended that Mejicanos's judgment be vacated based on his fourth claim for relief and that the first three claims of the petition be dismissed without prejudice.

In a letter submitted by his counsel<sup>1</sup> on December 11, 2024, petitioner stated that "there is no objection to the R&R." Nevertheless, the Court has reviewed the Report and Recommendation de novo and finds itself in complete agreement with its analysis. Still, petitioner explains that "it is not clear whether the claims other than those mentioned in the R&R can be raised in a future 28 U.S.C. § 2255 motion," and "would ask that the Court make that clear in the decision if the Court is going to follow the

---

<sup>1</sup> Mejicanos later retained counsel after filing his initial motion under 28 U.S.C. § 2255 pro se.

Magistrate's recommendation." Petitioner's request, however, extends beyond the scope of his current motion, asking the Court to evaluate how the intricate rules of habeas may apply to a future, hypothetical petition. The Court concludes that such an inquiry is not appropriate at this time.

Accordingly, the Court hereby adopts the Report and Recommendation. For the reasons therein, the Court grants relief with respect to the fourth claim of the petition and dismisses the first three claims without prejudice. After entering this order, the Court will issue an amended judgment (with the same conditions reflected in the judgment entered on September 21, 2022), from which a timely appeal can be made.

SO ORDERED.



---

JED S. RAKOFF, U.S.D.J.

Dated: New York, New York  
March 26, 2025